

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY MAY 5, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 413**

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**Introduced by Assembly Member Fuentes**

February 23, 2009

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An act to amend Sections 327, 382, 739.1, and 747 of, and to add Sections 365.1, 739.9, and 745 to, the Public Utilities Code, and to amend Section 80110 of the Water Code, relating to energy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 413, as amended, Fuentes. Energy: rates.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would prohibit the commission, *prior to January 1, 2016*, from requiring or permitting an electrical corporation to employ *mandatory or default* time-variant pricing, as defined, for residential customers, but would authorize the commission to authorize an electrical corporation to offer residential customers the option of receiving service pursuant to time-variant pricing. The bill, commencing January 1, 2016, would ~~authorize the commission to authorize an electrical corporation to employ default time-variant pricing for residential customers, if the~~

~~customer has the option of receiving service pursuant to a rate schedule that is not based upon time-variant pricing and if residential customers that exercise the option to not receive service pursuant to the permit the commission to approve an electrical corporation's use of time-variant pricing if residential customers have the option to not receive service pursuant to time-variant pricing and incur no additional fee or surcharge to exercise that option.~~

(2) Existing law requires the commission to establish a program of assistance to low-income electric and gas customers, referred to as the California Alternate Rates for Energy or CARE program, and prohibits the cost to be borne solely by any single class of customer.

This bill would require the commission to establish the CARE program to provide assistance to low-income electric and gas customers with annual household incomes at or below 200% of the federal poverty guideline levels, and require that the cost of the program not be borne solely by any single class of customer. The bill would require, for an electrical corporation or public utility that is both an electrical corporation and a gas corporation, that the cost of the program be recovered on an equal cents per kilowatthour or per-therm basis from all classes of customers that were subject to the surcharge that funded the CARE program on January 1, 2008.

(3) Existing law relative to electrical restructuring requires that the electrical corporations and gas corporations that participate in the CARE program administer low-income energy efficiency and rate assistance programs described in specified statutes, and undertake certain actions in administering specified energy efficiency and weatherization programs.

This bill would require that electrical corporations, in administering the specified energy efficiency and weatherization programs, to target energy efficiency and solar programs to upper-tier and multifamily customers in a manner that will result in long-term permanent reductions in electricity usage *by the dwelling units* and develop programs that specifically target *rehabilitation and weatherization of existing dwelling units and* new construction by, and new and retrofit appliances for, nonprofit affordable housing providers. The bill would require the commission to require electrical corporations to deploy enhanced Low-Income Energy Efficiency (LIEE) programs, as defined, designed to reach as many eligible customers as practicable by December 31, 2014, particularly targeting those customers occupying apartment houses or similar multiunit residential structures, and would require the

commission and electrical corporations and gas corporations to expend all reasonable efforts to coordinate ratepayer-funded programs with other energy conservation and efficiency programs and to obtain additional federal funding to support actions undertaken pursuant to this requirement.

(4) Existing law relative to electrical restructuring requires the commission to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers.

Existing law requires the commission to designate a baseline quantity of electricity and gas necessary for a significant portion of the reasonable energy needs of the average residential customer, and requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates and requires the commission, in establishing baseline rates, to avoid excessive rate increases for residential customers.

Existing law enacted during the energy crisis of 2000–01, authorized the Department of Water Resources, until January 1, 2003, to enter into contracts for the purchase of electricity, and to sell electricity to retail end use customers and, with specified exceptions, local publicly owned electric utilities, at not more than the department’s acquisition costs and to recover those costs through the issuance of bonds to be repaid by ratepayers. That law provides that the department is entitled to recover certain expenses resulting from its purchases and sales of electricity and authorizes the commission to enter into an agreement with the department relative to cost recovery. That law prohibits the commission from increasing the electricity charges in effect on February 1, 2001, for residential customers for existing baseline quantities or usage by those customers of up to 130% of then existing baseline quantities, until the department has recovered the costs of electricity it procured for electrical corporation retail end use customers. That law also suspends the right of retail end-use customers, other than community choice aggregators and a qualifying direct transaction customer, to acquire service through a direct transaction until the Department of Water Resources no longer supplies electricity under that law.

This bill would delete the prohibition that the commission not increase the electricity charges in effect on February 1, 2001, for residential customers for existing baseline quantities or usage by those customers of up to 130% of then existing baseline quantities. The bill would authorize the commission, until January 1, 2019, to increase the rates

charged residential customers for electricity usage up to 130% of the baseline quantities by the annual percentage change in the Consumer Price Index from the prior year plus 1%, but not less than 3% and not more than 5% per year. This authorization would be subject to the limitation that rates charged residential customers for electricity usage up to the baseline quantities, including any customer charge revenues, not exceed 90% of the system average rate, as defined. The bill would authorize the commission to increase the rates for participants in the CARE program, subject to certain limitations. The bill would delete the existing suspension of direct transactions in the Water Code that was adopted during the energy crisis of 2000–01, and would instead require the commission to authorize direct transactions subject to a phase-in schedule of not less than 3 years and not more than 5 years, and subject to total and yearly direct transaction limits established, as specified, for each electrical corporation. The bill would continue the suspension of direct transactions except as expressly authorized, until the Legislature, by statute, repeals the suspension or otherwise authorizes direct transactions.

(5) Existing law requires the commission to prepare and submit to the Governor and the Legislature a written report on an annual basis before February 1 of each year on the costs of programs and activities conducted by an electrical corporation or gas corporation that has more than a specified number of customers in California.

This bill would also require the report to contain the commission's recommendations for actions that can be undertaken during the upcoming year to limit utility cost increases, consistent with the state's carbon reduction, energy, and environmental goals. The bill would require the commission to annually require electrical and gas corporations to study and report to the commission on measures that they recommend be undertaken to limit cost increases.

(6) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because certain of the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 327 of the Public Utilities Code is  
2 amended to read:

3 327. (a) The electrical corporations and gas corporations that  
4 participate in the California Alternate Rates for Energy (*CARE*)  
5 program, as established pursuant to Section 739.1, shall administer  
6 low-income energy efficiency and rate assistance programs  
7 described in Sections 382, 739.1, 739.2, and 2790, subject to  
8 commission oversight. In administering the programs described  
9 in Section 2790, the electrical corporations and gas corporations,  
10 to the extent practicable, shall do all of the following:

11 (1) Continue to leverage funds collected to fund the program  
12 described in subdivision (a) with funds available from state and  
13 federal sources.

14 (2) Work with state and local agencies, community-based  
15 organizations, and other entities to ensure efficient and effective  
16 delivery of programs.

17 (3) Encourage local employment and job skill development.

18 (4) Maximize the participation of eligible participants.

19 (5) Work to reduce consumers electric and gas consumption,  
20 and bills.

21 (6) For electrical corporations, target energy efficiency and solar  
22 programs to upper-tier and multifamily customers in a manner that  
23 will result in long-term permanent reductions in electricity usage  
24 *by occupants of the dwelling units*, and develop programs that  
25 specifically target *rehabilitation and weatherization of existing*  
26 *dwelling units* and new construction by, and new and retrofit  
27 appliances for, nonprofit affordable housing providers.

28 (7) *For electrical corporations and for public utilities that are*  
29 *both electrical corporations and gas corporations, allocate the*  
30 *costs of the CARE program on an equal cents per kilowatthour or*  
31 *equal cents per therm basis to all classes of customers that were*  
32 *subject to the surcharge that funded the program on January 1,*  
33 *2008.*

(b) If the commission requires low-income energy efficiency programs to be subject to competitive bidding, the electric and gas corporation described in subdivision (a), as part of their bid evaluation criteria, shall consider both cost-of-service criteria and quality-of-service criteria. The bidding criteria, at a minimum, shall recognize all of the following factors:

(1) The bidder's experience in delivering programs and services, including, but not limited to, weatherization, appliance repair and maintenance, energy education, outreach and enrollment services, and bill payment assistance programs to targeted communities.

(2) The bidder's knowledge of the targeted communities.

(3) The bidder's ability to reach targeted communities.

(4) The bidder's ability to utilize and employ people from the local area.

(5) The bidder's general contractor's license and evidence of good standing with the Contractors' State License Board.

(6) The bidder's performance quality as verified by the funding source.

(7) The bidder's financial stability.

(8) The bidder's ability to provide local job training.

(9) Other attributes that benefit local communities.

(c) Notwithstanding subdivision (b), the commission may modify the bid criteria based upon public input from a variety of sources, including representatives from low-income communities and the program administrators identified in subdivision (b), in order to ensure the effective and efficient delivery of high quality low-income energy efficiency programs.

SEC. 2. Section 365.1 is added to the Public Utilities Code, to read:

365.1. (a) Except as expressly authorized by this section, and subject to the limitations in subdivisions (b) and (c), the right of retail end-use customers pursuant to this chapter to acquire service from other providers is suspended until the Legislature, by statute, lifts the suspension or otherwise authorizes direct transactions. For purposes of this section, "other provider" means any person, corporation, or other entity that ~~was~~ *is* authorized to provide electric service within the service territory of an electrical corporation pursuant to this chapter, and includes ~~electric service providers~~, an aggregator, broker, or marketer, as defined in Section 331, and an electric service provider, ~~as defined in Section 218.3.~~

(b) The commission may allow individual retail nonresidential end-use customers to acquire electric service from ~~electric service~~ *other* providers, subject to the limitation that the total annual kilowatthours supplied by all ~~electric service~~ *other* providers to distribution customers of an electrical corporation shall not exceed the maximum total annual level of kilowatthours supplied by all electric service providers, within that electrical corporation's distribution service territory, for any year between April 1, 1998, and ~~January 1, 2010. By January 31, December 31, 2009, inclusive.~~ *By June 30, 2010, the commission shall calculate and adopt a phase-in schedule of not less than three years, and not more than five years, to raise the allowable limit of kilowatthours supplied by other providers from the number of kilowatthours provided by other providers as of January 1, 2010, to the maximum total annual level for each electrical corporation's distribution service territory.*

(c) The commission shall not authorize additional direct transactions pursuant to subdivision (b) unless both of the following conditions are met:

(1) (A) Other providers are subject to the same requirements that are applicable to the state's three largest electrical corporations pursuant to the resource adequacy requirements established by the commission pursuant to Section 380, the renewables portfolio standard requirements ~~established by the commission pursuant to~~ *of* Article 16 (commencing with Section 399.11), and the requirements for the electricity sector adopted by the State Air Resources Board pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code). ~~It is the intent of the Legislature in making these requirements~~ *This requirement is made notwithstanding any prior decision of the commission.*

(B) *It is the intent of the Legislature in enacting this paragraph that, as a condition for allowing direct transactions, the resource adequacy requirements, the renewables portfolio standard requirements, and the requirements for reducing emissions of greenhouse gases be applied in a competitively neutral manner.*

(2) (A) The commission utilizes a mechanism that allocates the net capacity costs of new generation resources acquired by an electrical corporation ~~to meet system or local area reliability needs, as determined by the commission, for the benefit of those customers identified in clauses (i), (ii), and (iii), to meet system or local area~~

1 *reliability needs established by the commission pursuant to Section*  
2 *380, either through a contract with a third party, pursuant to*  
3 *commission authorization, or through direct ownership of the*  
4 *generation resource by the electrical corporation, pursuant to*  
5 *commission ~~direction~~ order, to all of the following, on a fully*  
6 *nonbypassable basis:*

7 (i) Bundled service customers of the electrical corporation.

8 (ii) Customers that purchase electricity through a direct  
9 transaction with other providers.

10 (iii) Customers of community choice aggregators.

11 (B) The resource adequacy benefits of new generation resources,  
12 *acquired by an electrical corporation pursuant to subparagraph*  
13 *(A), shall be allocated to all customers who pay their net capacity*  
14 *costs. Net capacity costs shall be determined by subtracting the*  
15 *energy and ancillary services value of the resource from the total*  
16 *costs paid by the electrical corporation ~~under the~~ pursuant to a*  
17 *contract with a third party or the annual revenue requirement for*  
18 *the resource if the electrical corporation directly owns the resource.*  
19 *An energy auction shall not be required as a condition of employing*  
20 *the mechanism, but may be allowed as a means to ~~value the~~*  
21 *electrical output establish the energy and ancillary services value*  
22 *of the resource for purposes of determining the net costs of capacity*  
23 *to be recovered from customers pursuant to this paragraph, and*  
24 *the allocation of the net capacity costs of contracts with third*  
25 *parties shall be allowed for the terms of those contracts.*

26 (C) It is the intent of the Legislature, in enacting this paragraph,  
27 to ensure that the customers to whom the net costs and benefits of  
28 capacity are allocated are not required to pay for the ~~costs~~ cost of  
29 electricity they do not consume.

30 (d) The commission may report to the Legislature on the efficacy  
31 of authorizing individual retail end-use residential customers to  
32 enter into direct transactions, including appropriate consumer  
33 protections.

34 SEC. 3. Section 382 of the Public Utilities Code is amended  
35 to read:

36 382. (a) Programs provided to low-income electricity  
37 customers, including, but not limited to, targeted energy-efficiency  
38 services and the California Alternate Rates for Energy program  
39 shall be funded at not less than 1996 authorized levels based on  
40 an assessment of customer need.



1 (b) In order to meet legitimate needs of electric and gas  
2 customers who are unable to pay their electric and gas bills and  
3 who satisfy eligibility criteria for assistance, recognizing that  
4 electricity is a basic necessity, and that all residents of the state  
5 should be able to afford essential electricity and gas supplies, the  
6 commission shall ensure that low-income ratepayers are not  
7 jeopardized or overburdened by monthly energy expenditures.  
8 Energy expenditure may be reduced through the establishment of  
9 different rates for low-income ratepayers, different levels of rate  
10 assistance, and energy efficiency programs.

11 (c) Nothing in this section shall be construed to prohibit electric  
12 and gas providers from offering any special rate or program for  
13 low-income ratepayers that is not specifically required in this  
14 section.

15 (d) The commission shall allocate funds necessary to meet the  
16 low-income objectives in this section.

17 (e) Beginning in 2002, an assessment of the needs of low-income  
18 electricity and gas ratepayers shall be conducted periodically by  
19 the commission with the assistance of the Low-Income Oversight  
20 Board. The assessment shall evaluate low-income program  
21 implementation and the effectiveness of weatherization services  
22 and energy efficiency measures in low-income households. The  
23 assessment shall consider whether existing programs adequately  
24 address low-income electricity and gas customers' energy  
25 expenditures, hardship, language needs, and economic burdens.

26 (f) The commission shall require electrical corporations to  
27 deploy enhanced low-income energy efficiency programs designed  
28 to reach as many eligible customers as practicable by December  
29 31, 2014, particularly targeting those customers occupying  
30 apartments or similar multiunit residential structures. The  
31 commission and electrical corporations and gas corporations shall  
32 make all reasonable efforts to coordinate ratepayer-funded  
33 programs with other energy conservation and efficiency programs  
34 and to obtain additional federal funding to support actions  
35 undertaken pursuant to this subdivision. For purposes of this  
36 subdivision, "enhanced programs" are programs that provide  
37 long-term reductions in energy consumption at the dwelling unit  
38 based on an audit or assessment of the dwelling unit, and may  
39 include improved insulation, energy efficient appliances, measures

1 that utilize solar energy, and other ~~cost-effective~~ improvements to  
2 the physical structure.

3 SEC. 4. Section 739.1 of the Public Utilities Code is amended  
4 to read:

5 739.1. (a) As used in this subdivision, the following terms  
6 have the following meanings:

7 (1) “Baseline quantity” has the same meaning as defined in  
8 Section 739.

9 (2) “California Solar Initiative” means the program providing  
10 ratepayer funded incentives for eligible solar energy systems  
11 adopted by the commission in Decision 05-12-044 and Decision  
12 06-01-024, as modified by Article 1 (commencing with Section  
13 2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with  
14 Section 25780) of Division 15 of the Public Resources Code.

15 (3) “CalWORKs program” means the program established  
16 pursuant to the California Work Opportunity and Responsibility  
17 to Kids Act (Chapter 2 (commencing with Section 11200) of Part  
18 3 of Division 9 the Welfare and Institutions Code).

19 (4) “Public goods charge” means the nonbypassable separate  
20 rate component imposed pursuant to Article 7 (commencing with  
21 Section 381) of Chapter 2.3 and the nonbypassable system benefits  
22 charge imposed pursuant to the Reliable Electric Service  
23 Investments Act (Article 15 (commencing with Section 399) of  
24 Chapter 2.3).

25 (b) (1) The commission shall establish a program of assistance  
26 to low-income electric and gas customers with annual household  
27 incomes at or below 200 percent of the federal poverty guideline  
28 levels, the cost of which shall not be borne solely by any single  
29 class of customer. ~~For an electrical corporation and for a public~~  
30 ~~utility that is both an electrical corporation and a gas corporation,~~  
31 ~~the costs shall be recovered on an equal cent-per-kilowatthour or~~  
32 ~~equal cents-per-therm basis from all classes of customers that were~~  
33 ~~subject to the surcharge that funded the program on January 1,~~  
34 ~~2008.~~ The program shall be referred to as the California Alternate  
35 Rates for Energy or CARE program. The commission shall ensure  
36 that the level of discount for low-income electric and gas customers  
37 correctly reflects the level of need.

38 (2) The commission may, subject to the limitation in paragraph  
39 (4), increase the rates in effect for CARE program participants for  
40 electricity usage up to 130 percent of baseline quantities by the

1 annual percentage increase in benefits under the CalWORKs  
2 program as authorized by the Legislature for the fiscal year in  
3 which the rate increase would take effect, but not to exceed 3  
4 percent per year. ~~This paragraph shall become inoperative on~~  
5 ~~January 1, 2019, unless a later enacted statute deletes or extends~~  
6 ~~that date.~~

7 (3) Beginning January 1, 2019, the commission may, subject  
8 to the limitation in paragraph (4), establish rates for CARE program  
9 participants pursuant to ~~Sections 739, 739.9, and this section~~ *this*  
10 *section and Sections 739 and 739.9*, subject to both of the following  
11 requirements:

12 (A) ~~That~~ *The requirements of subdivision (b) of Section 382*  
13 *that the commission ensure that* low-income ratepayers are not  
14 jeopardized or overburdened by monthly energy expenditures.

15 (B) ~~That the level of discount for low-income electric~~ *The*  
16 *requirement that the level of the discount for low-income electricity*  
17 *and gas customers* ratepayers correctly reflects the level of need  
18 as determined by the needs assessment conducted pursuant to  
19 subdivision (e) of Section 382.

20 (4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80  
21 percent of the corresponding tier 1, tier 2, and tier 3 rates charged  
22 residential customers not participating in the CARE program,  
23 excluding any Department of Water Resources bond charge  
24 imposed pursuant to Division 27 (commencing with Section 80000)  
25 of the Water Code, the CARE surcharge portion of the public  
26 goods charge, any charge imposed pursuant to the California Solar  
27 Initiative, and any charge imposed to fund any other program that  
28 exempts CARE participants from paying the charge.

29 (5) Rates charged to CARE program participants shall not have  
30 more than three tiers. An electrical corporation that does not have  
31 a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order  
32 to moderate the impact on program participants whose usage  
33 exceeds 130 percent of baseline quantities, shall be phased in to  
34 80 percent of the corresponding rates charged residential customers  
35 not participating in the CARE program, excluding any Department  
36 of Water Resources bond charge imposed pursuant to Division 27  
37 (commencing with Section 80000) of the Water Code, the CARE  
38 surcharge portion of the public goods charge, any charge imposed  
39 pursuant to the California Solar Initiative, and any other charge  
40 imposed to fund a program that exempts CARE participants from

1 paying the charge. For electrical corporations that currently do not  
2 have a tier 3 CARE rate, the initial rate shall be no more than 150  
3 percent of the CARE baseline rate and any additional revenues  
4 collected by an electrical corporation resulting from the adoption  
5 of a tier 3 CARE rate shall, until the utility's next periodic general  
6 rate case review of cost allocation and rate design, ~~be tracked and~~  
7 credited to reduce rates of residential ratepayers not participating  
8 in the CARE program with usage above 130 percent of baseline  
9 quantities.

10 (c) The commission shall work with the public utility electrical  
11 and gas corporations to establish penetration goals. The  
12 commission shall authorize recovery of all administrative costs  
13 associated with the implementation of the CARE program that the  
14 commission determines to be reasonable, through a balancing  
15 account mechanism. Administrative costs shall include, but are  
16 not limited to, outreach, marketing, regulatory compliance,  
17 certification and verification, billing, measurement and evaluation,  
18 and capital improvements and upgrades to communications and  
19 processing equipment.

20 (d) The commission shall examine methods to improve CARE  
21 enrollment and participation. This examination shall include, but  
22 need not be limited to, comparing information from CARE and  
23 the Universal Lifeline Telephone Service (ULTS) to determine  
24 the most effective means of utilizing that information to increase  
25 CARE enrollment, automatic enrollment of ULTS customers who  
26 are eligible for the CARE program, customer privacy issues, and  
27 alternative mechanisms for outreach to potential enrollees. The  
28 commission shall ensure that a customer consents prior to  
29 enrollment. The commission shall consult with interested parties,  
30 including ULTS providers, to develop the best methods of  
31 informing ULTS customers about other available low-income  
32 programs, as well as the best mechanism for telephone providers  
33 to recover reasonable costs incurred pursuant to this section.

34 (e) (1) The commission shall improve the CARE application  
35 process by cooperating with other entities and representatives of  
36 California government, including the California Health and Human  
37 Services Agency and the Secretary of California Health and Human  
38 Services, to ensure that all gas and electric customers eligible for  
39 public assistance programs in California that reside within the  
40 service territory of an electrical corporation or gas corporation,

1 are enrolled in the CARE program. To the extent practicable, the  
2 commission shall develop a CARE application process using the  
3 existing ULTS application process as a model. The commission  
4 shall work with public utility electrical and gas corporations and  
5 the Low-Income Oversight Board established in Section 382.1 to  
6 meet the low-income objectives in this section.

7 (2) The commission shall ensure that an electrical corporation  
8 or gas corporation with a commission-approved program to provide  
9 discounts based upon economic need in addition to the CARE  
10 program, including a Family Electric Rate Assistance program,  
11 utilize a single application form, to enable an applicant to  
12 alternatively apply for any assistance program for which the  
13 applicant may be eligible. It is the intent of the Legislature to allow  
14 applicants under one program, that may not be eligible under that  
15 program, but that may be eligible under an alternative assistance  
16 program based upon economic need, to complete a single  
17 application for any commission-approved assistance program  
18 offered by the public utility.

19 (f) The commission's program of assistance to low-income  
20 electric and gas customers shall, as soon as practicable, include  
21 nonprofit group living facilities specified by the commission, if  
22 the commission finds that the residents in these facilities  
23 substantially meet the commission's low-income eligibility  
24 requirements and there is a feasible process for certifying that the  
25 assistance shall be used for the direct benefit, such as improved  
26 quality of care or improved food service, of the low-income  
27 residents in the facilities. The commission shall authorize utilities  
28 to offer discounts to eligible facilities licensed or permitted by  
29 appropriate state or local agencies, and to facilities, including  
30 women's shelters, hospices, and homeless shelters, that may not  
31 have a license or permit but provide other proof satisfactory to the  
32 utility that they are eligible to participate in the program.

33 (g) It is the intent of the Legislature that the commission ensure  
34 CARE program participants are afforded the lowest possible  
35 electric and gas rates and, to the extent possible, are exempt from  
36 additional surcharges attributable to the energy crisis of 2000–01.

37 SEC. 5. Section 739.9 is added to the Public Utilities Code, to  
38 read:

39 739.9. (a) The commission may, subject to the limitation in  
40 subdivision (b), increase the rates charged residential customers

1 for electricity usage up to 130 percent of the baseline quantities,  
2 as defined in Section 739, by the annual percentage change in the  
3 Consumer Price Index from the prior year plus 1 percent, but not  
4 less than 3 percent and not more than 5 percent per year. For  
5 purposes of this subdivision, the annual percentage change in the  
6 Consumer Price Index shall be calculated using the same formula  
7 that was used to determine the annual Social Security Cost of  
8 Living Adjustment on January 1, 2008. This subdivision shall  
9 become inoperative on January 1, 2019, unless a later enacted  
10 statute deletes or extends that date.

11 (b) The rates charged residential customers for electricity usage  
12 up to the baseline quantities, including any customer charge  
13 revenues, shall not exceed 90 percent of the system average rate  
14 prior to January 1, 2019, and may not exceed 92.5 percent after  
15 that date. For purposes of this subdivision, the system average rate  
16 shall be determined by dividing the electrical corporation's total  
17 revenue requirements for bundled service customers by the adopted  
18 forecast of total bundled service sales.

19 (c) This section does not require the commission to ~~raise~~  
20 ~~increase~~ any residential rate or restrict, or otherwise limit, the  
21 authority of the commission to reduce any residential rate ~~in effect~~  
22 ~~immediately preceding January 1, 2010.~~

23 SEC. 6. Section 745 is added to the Public Utilities Code, to  
24 read:

25 745. (a) The commission shall not require or permit an  
26 electrical corporation to employ mandatory *or default* time-variant  
27 pricing for residential customers *prior to January 1, 2016.*

28 (b) The commission may authorize an electrical corporation to  
29 offer residential customers the option of receiving service pursuant  
30 to time-variant pricing *and to participate in other demand-response*  
31 *programs.*

32 (c) ~~Commencing January 1, 2016, the commission may authorize~~  
33 ~~an electrical corporation to employ default time-variant pricing~~  
34 ~~for residential customers, if the customer has the option of~~  
35 ~~receiving service pursuant to a rate schedule that is not based upon~~  
36 ~~time-variant pricing. The commission shall only approve an~~  
37 ~~electrical corporation's default use of time-variant pricing if~~  
38 ~~residential customers that exercise the option to not receive service~~  
39 ~~pursuant to time-variant pricing incur no additional fee or surcharge~~  
40 ~~to exercise that option. shall only approve an electrical~~

1 *corporation's use of time-variant pricing if residential customers*  
2 *have the option to not receive service pursuant to time-variant*  
3 *pricing and to incur no additional fees and surcharges as a result*  
4 *of the exercise of that option.*

5 (d) For purposes of this section, "time-variant pricing" includes  
6 time-of-use rates, critical-peak pricing, and real-time pricing, but  
7 does not include programs that provide customers with discounts  
8 from the standard tariff rate as an incentive to reduce consumption  
9 at certain times, including peak-time rebates.

10 SEC. 7. Section 747 of the Public Utilities Code is amended  
11 to read:

12 747. (a) It is the intent of the Legislature that the commission  
13 reduce rates for electricity and natural gas to the lowest amount  
14 possible.

15 (b) (1) The commission shall prepare a written report on the  
16 costs of programs and activities conducted by each electrical  
17 corporation and gas corporation that is subject to this section,  
18 including activities conducted to comply with their duty to serve.  
19 The report shall be completed on an annual basis before February  
20 1 of each year, and shall identify, clearly and concisely, all of the  
21 following:

22 (A) Each program mandated by statute and its annual cost to  
23 ratepayers.

24 (B) Each program mandated by the commission and its annual  
25 cost to ratepayers.

26 (C) Energy purchase contract costs and bond-related costs  
27 incurred pursuant to Division 27 (commencing with Section 80000)  
28 of the Water Code.

29 (D) All other aggregated categories of costs currently recovered  
30 in retail rates as determined by the commission.

31 (2) The report shall also contain the commission's  
32 recommendations for actions that can be undertaken during the  
33 upcoming year to limit utility cost increases, consistent with the  
34 state's carbon reduction, energy, and environmental goals.

35 (3) In preparing the report, the commission shall annually require  
36 electrical and gas corporations to study and report to the  
37 commission on measures that they recommend be undertaken to  
38 limit cost increases.

39 (c) As used in this section, the reporting requirements apply to  
40 electrical corporations with at least 1,000,000 retail customers in

1 California and gas corporations with at least 500,000 retail  
2 customers in California.

3 (d) The report required by subdivision (b) shall be submitted to  
4 the Governor and the Legislature no later than February 1 of each  
5 year.

6 (e) The commission shall post the report required by subdivision  
7 (b) in a conspicuous area of its Internet Web site.

8 SEC. 8. Section 80110 of the Water Code is amended to read:

9 80110. (a) The department shall retain title to all ~~power~~  
10 *electricity* sold by it to the retail end-use customers. The department  
11 shall be entitled to recover, as a revenue requirement, amounts and  
12 at the times necessary to enable it to comply with Section 80134,  
13 and shall advise the commission as the department determines to  
14 be appropriate.

15 (b) The revenue requirements may also include any advances  
16 made to the department hereunder or hereafter for purposes of this  
17 division, or from the Department of Water Resources Electric  
18 Power Fund, and General Fund moneys expended by the  
19 department pursuant to the Governor's Emergency Proclamation  
20 dated January 17, 2001.

21 (c) (1) For the purposes of this division and except as otherwise  
22 provided in this section, the Public Utility Commission's authority  
23 as set forth in Section 451 of the Public Utilities Code shall apply,  
24 except any just and reasonable review under Section 451 shall be  
25 conducted and determined by the department. Prior to the execution  
26 of any modification of any contract for the purchase of ~~power~~  
27 *electricity* by the department pursuant to this division, on or after  
28 the effective date of this section, the department or the commission,  
29 as applicable, shall do the following:

30 (A) The department shall notify the public of its intent to modify  
31 a contract and the opportunity to comment on the proposed  
32 modification.

33 (B) At least 21 days after providing public notice, the department  
34 shall make a determination as to whether the proposed  
35 modifications are just and reasonable. The determination shall  
36 include responses to any public comments.

37 (C) No later than 70 days before the date of execution of the  
38 contract modification, the department shall provide a written report  
39 to the commission setting forth the justification for the  
40 determination that the proposed modification is just and reasonable,



1 including documents, analysis, response to public comments, and  
2 other information relating to the determination.

3 (D) Within 60 days of the date of receipt of the department's  
4 written report, the commission shall review the report and make  
5 public its comments. If the commission in its comments  
6 recommends against the proposed modification, the department  
7 shall not execute the proposed contract modification.

8 (2) This subdivision does not apply to the modification of a  
9 contract modified to settle litigation to which the commission is  
10 a party.

11 (3) This subdivision does not apply to the modification of a  
12 contract for the purchase of electricity that is generated from a  
13 facility owned by a public agency if the contract requires the public  
14 agency to sell electricity to the department at or below the public  
15 agency's cost of that ~~power~~ *electricity*.

16 (4) This subdivision does not apply to the modification of a  
17 contract to address issues relating to billing, scheduling, delivery  
18 of electricity, and related contract matters arising out of the  
19 implementation by the Independent System Operator of its market  
20 redesign and technology upgrade program.

21 (5) (A) For purposes of this subdivision, the department  
22 proposes to "modify" a contract if there is any material change  
23 proposed in the terms of the contract.

24 (B) A change to a contract is not material if it is only  
25 administrative in nature or the change in ratepayer value results  
26 in ratepayer savings, not to exceed twenty-five million dollars  
27 (\$25,000,000) per year. For the purpose of making a determination  
28 that a change is only administrative in nature or results in ratepayer  
29 savings of twenty-five million dollars (\$25,000,000) or less per  
30 year, the executive director of the commission shall concur in  
31 writing with each of those determinations by the department.

32 (d) The commission may enter into an agreement with the  
33 department with respect to charges under Section 451 for purposes  
34 of this division, and that agreement shall have the force and effect  
35 of a financing order adopted in accordance with Article 5.5  
36 (commencing with Section 840) of Chapter 4 of Part 1 of Division  
37 1 of the Public Utilities Code, as determined by the commission.

38 (e) The department shall have the same rights with respect to  
39 the payment by retail end-use customers for ~~power~~ *electricity* sold

1 by the department as do providers of ~~power~~ *electricity* to the  
2 customers.

3 SEC. 9. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.

12

13

14 **CORRECTIONS:**

15 **Text—Page 7.**

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